February 15, 2016

TO   Environment Committee

RE: **TESTIMONY FOR SB 79**

        ACT CLARIFYING PROVISIONS OF THE GENERAL STATUTES REGARDING THE USE OF PROPERLY INSTALLED AND CONSTRUCTED BARRIER SYSTEMS FOR CERTAIN PLANTINGS.

Members of the Environment Committee:

I respectfully urge you to **SUPPORT SB 79**, and **PARTICULARLY to include the following language in order to CLARIFY and make the statute ENFORCEABLE**:

1. **In Section 1, Subsection (c)**, add the words '**or allow to grow**'.

2. **Add Subsection (g) as follows:**
   "A private right of action may be maintained by an adjoining property owner to enforce the provisions of [subsection (c)] of this statute."
   The plaintiff is entitled to attorneys' fees, and costs and disbursements if he/she is the prevailing party."

These two **CLARIFICATIONS** are critical to the original intent of the statute, which is to **protect abutting property owners**.

The law, as it reads without these additions, in practicality, is unenforceable.
Most towns don't have the manpower or technical knowledge of plant science to tackle enforcement at the municipal level.
Therefore, if the language is clarified to reflect the essence of what the legislation is intended to accomplish, it will allow homeowners recourse in the courts that is effective.

Right now, a person growing the bamboo, who lets it get onto an abutting property, can use his homeowner's insurance to DEFEND against an action to remove the bamboo. But the person whose property is invaded has to hire an attorney, at his own expense, and try to have the court adjudicate what is 'gray language'. Impractical.

The phrase '**not allow running bamboo to grow**' within the 40 foot buffer is critical to prevent encroachment onto abutting properties. There are examples in plain view, around the state, of running bamboo that has popped up through asphalt, having easily spread in a few short years. The 40 foot buffer needs to be CLEAR OF RHIZOMES in order to *effectively* protect abutting properties. This allows abutters to monitor the spread of bamboo BEFORE it reaches their property. Once it enters a property, that property owner has a difficult and very expensive problem. I believe prevention is prudent and will protect property values. If a property owner sees bamboo in an the 40 foot buffer outside his property, the proposed addition to subsection (c) would allow the property owner immediate recourse, before his property is invaded. Furthermore, it

would allow TOWNS and the STATE recourse before public rights of way, including underground utilities, sidewalks, and roads, are invaded.

Furthermore, the proposed addition that a person shall <u>not allow running bamboo to grow</u> within the 40 foot buffer provides <u>protection for abutting property owners if the property with the bamboo is subsequently sold</u>. The owner of a property where bamboo is GROWING, regardless of when it was planted or by whom, should be responsible to keep it from spreading to other abutters.

I have personally seen phyllostachys bamboo invade public and private properties in many locations. A gentleman informed me that a small 10 foot circle of running bamboo in his yard, which was planted by his father several years ago, requires constant vigilance. He states he has to cut it with a chainsaw every year. He constantly mowes the lawn around it. He is in the landscape business, including a component for blade sharpening. He informed me he has to sharpen the chain on his chainsaw SEVERAL times to cut the small 10 foot circle of bamboo next to his garage. I work with people who use chainsaws on oak, hickory, and maple who can work all day without sharpening their chain.

At present, the average property owner has no defense against this horrible plant if it spreads from a neighbor's property. SB 79, WITH THE PROPOSED ADDITIONS above, will provide protection that is practical.

Please support SB 79 WITH THE PROPOSED ADDITIONS as described above.

THANK YOU for consideration of this issue.

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